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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/979,570

11/26/2002

Marvin A. Frenkel

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EXAMINER

AUGUSTIN, EVENS J

ART UNIT

PAPER NUMBER

3621

MAIL DATE

DELIVERY MODE

06/09/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/979,570	<b>Applicant(s)</b> FRENKEL, MARVIN A.	
	<b>Examiner</b> EVENS J. AUGUSTIN	<b>Art Unit</b> 3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,5,7 and 10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 5, 7 and 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Acknowledgement***

1. This is in response to an amendment filed on 03/26/2009. Claim 5 has been cancelled.  
Claims 11-20 has been added. Claims 1, 7 and 10-20 are pending have been examined.

### ***Claim Rejections - 35 USC § 112 – 2<sup>nd</sup> Paragraph***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 18 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim contains limitation of an account seller. Claim 11 states that “the account is selected from the group of retail stores and banks”. In that regard, it is not clear whether applicant is claiming a retail store or bank.

### ***Claim Rejections - 35 USC § 112 – 1<sup>st</sup> Paragraph***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1, 7 and 10-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claims contain subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it

pertains, or with which it is most nearly connected, to make and/or use the invention.

Specifically, the independent claims contain the language "the central computer server transferring an amount of electronic currency corresponding to the amount that the account seller received from the customer from a bank account of the account seller to one or more central bank accounts having one or more account numbers". The PTO has not been able to find that language in the original specification filed on 11/14/2001. Therefore, the newly added language is considered new matter.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 7 and 10-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Creswell et al. (U.S. 6823318) ("Creswell") in view of Resneck (U.S. 20020002545).
5. As per claims 1, 7 and 10-20 Creswell discloses an invention that relates generally to secure purchases from vendors over a computer network. The invention comprises of the following:
- A. ("**a customer depositing cash with a depository, the depository being independent of said customer such that the identity of said customer remains anonymous**") --A purchaser will purchase the prepaid card, and the prepaid card will

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- be "charged" with the amount of the purchase price") (C2, L64-66)- the purchaser's address does not ever have to be transmitted to vendor server 24, and the purchaser can remain anonymous to the vendor (C5, L8-10);
- B. Cresswell did not explicitly teach the aspect of electronic funds transfer from account to another. However, Resneck teaches the aspect of electronic funds transfer in an anonymous transaction environment (par.6 and 31).
- C. Therefore, it would have been obvious for one of ordinary skill in the art at the time of the applicant's invention to construct a system that would employ a method/system that transfers funds electronically from one account to another. It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to implement such system because electronic funds transfer enables online transactions.
- D. **("the central computer server depository generating, storing and issuing to the customer account seller one or more anonymous and randomly-generated serial numbers corresponding to the said one or more account number numbers and")**  
--
- E. **("converting said cash into electronic currency, setting up a numbered account and placing said electronic currency into said numbered account")** --Purchase of prepaid card is given a unique/serial number (C2, L67)-
- F. **("issuing to the customer one or more anonymous and randomly-generated serial numbers corresponding to the account number")** --Since the number generated for the card is unique (non repeating), they are randomly generated--

- G. ("**submitting at least one serial number to the on-line merchant to purchase goods or services, said on-line merchant and said depository being unable to identify said customer during said purchase**") - Submitting card ID to merchant (C3, L40-41)
- H. ("**transferring an amount of said electronic currency corresponding to said at least one serial number to an account of said on-line merchant**") -- ("**transmits said serial number to a server of said depository for authentication**") --The appropriate information is then submitted electronically for authentication (C3, L25-55)

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Creswell et al. (U.S 6823318) ("Creswell"), in view of DiMaria et al. (U.S 6148091) ("DiMaria").

As per claim 10, Cohen et al.'s invention has previously been disclose.

Creswell did not explicitly describe a method/system in which serial number/unique identifier comprises information/data about the customer's age. However, DiMaria et al.

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describes an invention that relates to accessing personalized identification information and encoded age data stored in at least one machine readable medium on an individual's identification document, such as a driver's license or other official document, to determine whether an individual is of legal age. According to DiMaria et al., age data is encoded into a machine readable surface (column 2, lines 61-65). The surface can be anything, printed, written, encoded, etc., which is relied upon to record data or provide identification (column 3, lines 42-45).

Therefore, it would have been obvious for one of ordinary skill in the art at the time of the applicant's invention to construct a system that would employ a method/system in which serial number/unique identifier comprises information/data about the customer's age. According to DiMaria et al. the motivation would be to provide an inexpensive method and apparatus to check age data on a bearer's identification document and to alert an operator as to whether the bearer may purchase or rent age-controlled merchandise or services (column 3, lines 12-15).

### ***Response to Arguments***

7. The United States Patent and Trademark Office has fully considered the applicant's arguments filed on 03/26/2009, but has not found those arguments to be persuasive.

**Argument 1:** Prior Art is not totally anonymous

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**Response 1:** Similar to the claimed invention, as it relates to a transaction between a buyer and seller, the prior art teaches a transaction taken place between a buyer and a seller, where the identity of the buyer is not revealed.

***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Any new ground(s) of rejection is due to the applicant's amendment. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
9. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.
10. In determining patentability of an invention over the prior art, the USPTO has considered all claimed limitations, and interpreted as broadly as their terms reasonably allow. Additionally, all words in the claims have been considered in judging the patentability of the claims against the prior art.
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to EVENS J. AUGUSTIN whose telephone number is 571-272-6860. The examiner can normally be reached on 10am - 6pm M-F.



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12. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor,

Andrew Fischer can be reached on (571)272-677979.

/Evens J. Augustin/

Evens J. Augustin

June 9, 2009

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